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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,999	02/02/2001	Paul Stiros	8412	7441

27752 7590 03/28/2002

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EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
1744	6

DATE MAILED: 03/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)
	09/775,999	STIROS ET AL.
	Examiner	Art Unit
	MONZER R CHORBAJI	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 February 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: In claim 10, line 1; applicant uses the term "according to claim 10". Claim 10 should depend on claim 9 unless otherwise specified. When claim 10 is examined, it is assumed that claim 10 depends on claim 9. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aibe et al (U.S.P.N. 5,403,548) in view of Bermas (U.S.P.N. 5,772,959).

With respect to claims 1, 9, 11, and 16; Aibe et al teaches the following: an air-deodorizing device (figure 3, 31) and a method (col.20, test example 3), which includes a filter member (figure 3, 35), a filter element (figure 3, 36) with a filter medium (col.4, lines 5-7), an air moving member (figure 3, 38) such that the filter member is detachable from it (figure 1, 6 and col.13, lines 35-38), positioning the filter member inside a confined space (col.12, lines 67-68 and col.13, lines 1-2), neutralizing odor in the air of the confined space, positioning a second passive filter member (col.20, lines 63-66 and table 3, gas flow rate column) inside a confined space (col.20, test example 3) with a second substance (col.20, line 65) to deodorize the air. However, with respect to claims 1, 9, and 11; Aibe et al fails to disclose the use of sodium bicarbonate. Also, with respect to claim 16; Aibe et al fails to disclose the use of interchangeable passive filter members with respect to the device. With respect to claims 1, 9, 11, and 16; Bermas, which is in the art of deodorizing the air in refrigerators (col.1, lines 11-15), teaches that combining activated carbon and sodium bicarbonate is well known in the art of deodorizing refrigerators (col.1, lines 49-54). Furthermore,

Bermas discloses the use of independent identical passive members (figure 1, 10) inside the refrigerators. Thus, it would have been obvious for a person having ordinary skill in the art of deodorizing air in the refrigerators to utilize the teachings of Bermas to Aibe et al in order to maximize the rate of deodorization of air inside refrigerators by combining passive and active deodorizers.

With respect to claims 2-5; Aibe et al teaches the following: the filter member (figure 2, 7) includes a cartridge (figure 1, 6) which has a top portion and a bottom portion (figure 2, such parts of 6 are not labeled), also the cartridge has air inlets in its top (figure 2, top portion of 6 is not labeled) and air outlets on its bottom (figure 2, bottom portion of 6 is not labeled), the air moving member (figure 2, the lower part of 2 which includes a fan) has a top portion with an air inlet therein (figure 2, top portion of the lower part of 2 on which 7 lies directly above) , the cartridge (figure 1, 6) sits on the top portion of the air moving member such that the air outlets on the bottom of the cartridge partially in alignment with the air inlet on the air moving member, and the air moving member includes a fan (figure 2, 8). In addition, Aibe et al teaches that the location of the fan, the cartridge, the inlets and the outlets can be varied (col.9, lines 32-51, and col.14, lines 21-31). With respect to claim 5; the use of sodium bicarbonate has been addressed with regard to claims 1, 9, 11.

With respect to claims 6-7; Bermas teaches the following: filter element (figure 2, 10) includes a container (figure 2, 40) with at least two air pervious sides (figure 4, 40 has two unlabeled sides), which contains sodium bicarbonate

(col.1, line 51), the container is a bag (col.4, lines 51-52) made of air pervious material with sodium bicarbonate therein, and the filter medium includes activated carbon (col.4, line 41).

With respect to claims 10 and 12; Aibe et al teaches that the confined space is inside a refrigerator (col.20, lines 22-23).

With respect to claims 13-15; Aibe et al discloses that the device can be used in a refrigerator (col.20, lines 22-23), which intrinsically includes compartments separate from the remainder of the confined space. Thus, in order to deodorize air in a refrigerator, inserting the device in the compartments or in the main section of the refrigerator is an intrinsic step in order to achieve such a goal. However, Aibe et al fails to disclose the use of sodium bicarbonate and the use of interchangeable passive filter members. Bermas teaches the use of a passive filter member (figure 1, 10), which includes sodium bicarbonate (col.1, line 51) to deodorize air in a refrigerator. As a result, it would have been obvious for a person having ordinary skill in the art of deodorizing air in the refrigerators to utilize the teachings of Bermas to Aibe et al in order to optimize the rate of deodorization of air inside refrigerators by combining passive and active deodorizers.

Conclusion

6. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Neumiller (U.S.P.N. 4,294,821) teaches that it is known to combine sodium bicarbonate and activated carbon together as deodorizing

composition used in refrigerators. Aibe et al (U.S.P.N. 5,288,306) teaches device and method of deodorizing air in a refrigerator.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (703) 305-3605. The examiner can normally be reached on M-F 8:30-5:00.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-7719 for After Final communications.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Monzer R. Chorbaji *MRC*
Patent Examiner
AU 1744
March 12, 2002

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